

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

CIVIL REVISION APPLICATION No 1059 of 1999

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

1. Whether Reporters of Local Papers may be allowed to see the Judgment ?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the Judgment ?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

KAILASHBEN MUKESHBHAI PATEL

VERSUS

MAGANBHAI JETHABHAI PATEL

Appearance:

MR AR MAJMUDAR for the Petitioner

MR AN PATEL for the Respondent

CORAM : MR JUSTICE S.K. KESHOTE

Date of Decision : 28/03/2000

C.A.V. JUDGMENT

1. Both the courts below have not granted interim relief in favour of the plaintiff - petitioner. Hence, this revision application.

2. Heard the learned counsel for the parties.

3. Both the courts below have concurrently held that the defendant - respondent is in possession of the suit property. It is true that the plaintiff petitioner is daughter of late Naravanbhai J. Patel but she is a married daughter and she is residing with her husband. Now she is claiming right in the property and that will be decided in the suit but when the possession of the land in dispute is with the defendant - respondent, no such injunction can be granted whereby to permit her to enter into the possession of the suit property. If such an injunction is granted at this stage, it will created manifold problems which may result in manifold litigations of civil and criminal nature.

4. So far as the prayer that the defendant respondent may be restrained not to sale or hand over the possession of her share is concerned, it is suffice to say that if during the pendency of the suit any transfer is made, it is always subject to the provisions of section 52 of the T.P. Act. Lis pendens will apply and that transfer is always subject to the result of the suit. So in case the orders of the courts below are allowed to stand, the same will not occasion any failure of justice or will cause irreparable injury to the petitioner.

5. In the result, this revision application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated. No order as to costs.

zgs/-